

## **REMARKS/ARGUMENTS**

Claims 1-18 were pending in the application. Claims 1, 4-7, 11, and 18 are amended; claims 2-3 are canceled; and new claims 19-21 are added herein. Claims 1 and 4-21 are now pending in the application. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

### **35 U.S.C. §101 Rejections**

In page 2 of the Office Action, the Examiner rejected claims 11-13 under 35 U.S.C. §101 as directed to allegedly non-statutory subject matter. In support, the Examiner states that “it is clear from the specification (§82) that the call manager is a software application” (emphasis added). The Applicant respectfully submits that paragraph 82 of the application publication (U.S. Pat. App. Pub. No. 2004/0205239), to which the Applicant presumes the Examiner is referring (since the originally filed specification is not numbered by paragraph), discusses one possible embodiment of the invention where “distributed calculation of primary and restoration paths is performed in the network elements, as opposed to centralized calculation.” Paragraph 82 notes that “the network manager ... may be a standalone, centralized entity, a distributed entity, or intrinsically a part of one or more of the nodes in a network.” A network manager can be implemented at least in part using software, but this does not make the network manager itself software. Rather, it makes the network manager a unique device implemented in part by a processor running software.

The Applicant submits that, first, neither paragraph 82, nor any other paragraph of the specification, refers to a call manager. Second, neither paragraph 82, nor any other paragraph of the specification, describes a network manager as limited to a “software” application. Furthermore, claims 11-13 are directed to a “network manager adapted to determine primary and restoration paths for a new service in a mesh network,” with no limitations as to how the network manager is implemented. Therefore, for the above reasons, the Applicant submits that the Examiner’s §101 rejection is improper and should be withdrawn.

### **Miscellaneous Amendments**

Claims 1 and 18 have been amended to clarify that their recited respective methods are network-manager-implemented methods. These amendments were not made to overcome any prior-art rejections.

### Allowable Subject Matter

In page 7 of the Office Action, the Examiner stated that previously pending claim 18 is allowed and claims 4, 7, 9-10, and 16-17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Prior-Art Rejections

In pages 2-6 of the Office Action, the Examiner rejected claims 1-3, 5-6, 8, and 11-15 under 35 U.S.C. §103 as being anticipated by Doshi et al. (U.S. Pat. No. 6,130,875) in view of Kodialam et al (U.S. Pat. App. Pub. No. 2002/0067693 A1).

#### Claim 1

Claim 1 has been amended to incorporate the subject matter of previously pending claims 2 and 3. The Applicant submits that the cited references do not teach all the claimed features of amended claim 1.

Specifically, in rejecting previously pending claim 3, the Examiner admitted that Doshi does not teach “if sharing is available, then generating the link cost as a function of a sharing degree for the link; wherein the sharing degree is the maximum number of additional unit-bandwidth primary services that can be added to the candidate primary path without increasing bandwidth reserved on [the] link,” but argued that Kodialam teaches this feature. The Examiner cited paragraph 30 of Kodialam as specifically teaching this feature. The Applicant submits, however, that the cited section does not teach this requisite feature.

Paragraph 30 of Kodialam discusses inter-demand and intra-demand sharing of capacity on a backup path. Neither the cited section, nor any other part of Kodialam even mentions the term “maximum,” let alone teaches calculating the maximum number of additional unit-bandwidth primary services that can be added to a candidate primary path without increasing restoration bandwidth reserved on a link. Thus, it cannot be said that the cited references teach this requisite feature of amended claim 1.

Therefore, the Applicant submits that claim 1 is allowable over the cited references. Since claims 4-10 and 14-17 depend variously from claim 1, it is submitted that those claims are also allowable over the cited references.

### Claim 11

Claim 11 has been amended to incorporate the subject matter of previously pending claims 2 and 3. The Applicant submits, for reasons similar to those for amended claim 1 above, that the cited references do not teach all the claimed features of amended claim 11.

Therefore, the Applicant submits that claim 11 is allowable over the cited references. Since claims 12-13 depend from claim 11, it is submitted that those claims are also allowable over the cited references.

### Claims 8 and 19

New claim 19 is equivalent to previously pending claim 8, written in independent form. The Applicant submits that the cited references do not teach all the recited features of new claim 19.

In rejecting previously pending claim 8, the Examiner asserted that Doshi teaches that “the sharability of a link in a candidate restoration path is represented by a sharing degree for the link,” wherein “the sharing degree is a maximum number of additional unit-bandwidth primary services that can be added to the candidate primary path without increasing restoration bandwidth reserved on the link.” The Examiner cited column 23 of Doshi, under the FC header, as specifically teaching this feature. The cited section teaches, in the relevant part, “When restoration capacity is shared by demands with non-overlapping failure sets for at least some demand pairs, the free capacity is increased to reflect this sharing.” Although the cited section might mention sharing and free capacity, it merely states that the free-capacity value for a link depends on whether that link allows restoration sharing and it does not correlate (a) the maximum number of additional unit-bandwidth primary services that can be added to a candidate primary path to (b) the sharability of a link in a candidate restoration path, in the manner recited in new claim 19. Thus, it cannot be said that the cited references teach this requisite feature of new claim 19.

Therefore, the Applicant submits that new claim 19 is allowable over the cited references. Since claims 20 and 21 depend from claim 19, it is further submitted that those claims are also allowable over the cited references.

For similar reasons, the Applicant submits that this also provides further grounds for the allowability of currently pending claim 8. Since claims 9-10 depend from claim 8, it is further submitted that this also provides further grounds for the allowability of those claims.

Claims 20 and 21

New claim 20 is equivalent to previously pending claim 9, which the Examiner indicated is directed to allowable subject matter. New claim 21 is equivalent to previously pending claim 10, which the Examiner indicated is directed to allowable subject matter.

Fees

During the pendency of this application, the Commissioner for Patents is hereby authorized to charge payment of any filing fees for presentation of extra claims under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17 or credit any overpayment to Mendelsohn & Associates, P.C. Deposit Account No. 50-0782.

The Commissioner for Patents is hereby authorized to treat any concurrent or future reply, requiring a petition for extension of time under 37 CFR § 1.136 for its timely submission, as incorporating a petition for extension of time for the appropriate length of time if not submitted with the reply.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

Respectfully submitted,

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